

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

ROBERT BARRY LITMAN, M.D.)

Case No. 800-2017-035668

**Physician's and Surgeon's)
Certificate No. G26925)**

**Respondent)
_____**

DECISION

**The attached Stipulated Surrender of License and Order is hereby
adopted as the Decision and Order of the Medical Board of California,
Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on August 2, 2018

IT IS SO ORDERED July 26, 2018 .

MEDICAL BOARD OF CALIFORNIA

By:



**Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 JOHN S. GATSCHET
Deputy Attorney General
4 State Bar No. 244388
California Department of Justice
5 1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
Telephone: (916) 210-7546
7 Facsimile: (916) 327-2247

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2017-035668

14 **ROBERT BARRY LITMAN, M.D.**
15 PO Box 775
Lincoln, CA 95648-0775

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 Physician's and Surgeon's Certificate No. G 26925,

17 Respondent.

18
19 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
23 Board of California ("Board"). She brought this action solely in her official capacity and is
24 represented in this matter by Xavier Becerra, Attorney General of the State of California, by John
25 S. Gatschet, Deputy Attorney General.

26 2. Robert Barry Litman, M.D. ("Respondent") is represented in this proceeding by
27 attorney Paul Chan, Esq., whose address is:
28

1 Paul Chan, Esq.
2 Law Offices of Paul Chan
3 2311 Capitol Avenue
4 Sacramento, CA 95816.

5 3. On or about June 13, 1974, the Board issued Physician's and Surgeon's Certificate
6 No. G 26925 to Robert Barry Litman, M.D. ("Respondent"). The Physician's and Surgeon's
7 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
8 No. 800-2017-035668 and will expire on November 30, 2019, unless renewed. An Interim
9 Suspension Order was issued on June 13, 2018, which prohibits Respondent from practicing
10 medicine.

11 JURISDICTION

12 4. Prior to the Board accepting this stipulated surrender, Accusation No. 800-2017-
13 035668 was filed before the Medical Board of California and is currently pending against
14 Respondent. Respondent agrees to waive any and all service and notice requirements and is
15 choosing to enter into a stipulated surrender of his license with the Board. On June 13, 2018,
16 Respondent informed the Board that he wished to surrender his Physician's and Surgeon's
17 Certificate. Respondent has chosen to not file a Notice of Defense contesting the Accusation and
18 instead is entering into a stipulation that will lead to the surrender of his Physician's and
19 Surgeon's Certificate. A copy of Accusation No. 800-2017-035668 is attached as Exhibit A and
20 incorporated by reference.

21 ADVISEMENT AND WAIVERS

22 5. Respondent has carefully read, fully discussed with counsel, and understands the
23 charges and allegations in Accusation No. 800-2017-035668. Respondent also has carefully read,
24 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
25 and Order.

26 6. Respondent is fully aware of his legal rights in this matter, including the right to a
27 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
28 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
to the issuance of subpoenas to compel the attendance of witnesses and the production of

1 documents; the right to reconsideration and court review of an adverse decision; and all other
2 rights accorded by the California Administrative Procedure Act and other applicable laws.

3 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5 CULPABILITY

6 8. Respondent understands that the charges and allegations in Accusation No. 800-2017-
7 035668, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
8 Surgeon's Certificate.

9 9. For the purpose of resolving the Accusation without the expense and uncertainty of
10 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
11 basis for the cause of action and cause for discipline in the Accusation and that those causes
12 constitute cause for discipline and/or revocation of his Physician's and Surgeon's Certificate No.
13 G 26925. Respondent hereby gives up his right to contest that cause for discipline and/or
14 revocation exists based on those charges.

15 10. Respondent understands that by signing this stipulation he enables the Board to issue
16 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
17 process.

18 11. If Respondent ever files an application for licensure or a petition for reinstatement in
19 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
20 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
21 effect at the time the petition is filed, and all of the charges and allegations contained in
22 Accusation No. 800-2017-035668 shall be deemed to be true, correct and admitted by Respondent
23 when the Board determines whether to grant or deny the petition.

24 RESERVATION

25 12. The admissions made by Respondent herein are only for the purposes of this
26 proceeding, or any other proceedings in which the Medical Board of California or other
27 professional licensing agency is involved, and shall not be admissible in any other criminal or
28 civil proceeding.

CONTINGENCY

13. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a . . . stipulation for surrender of a license."

14. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for her consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

15. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Executive Director on behalf of the Board does not, in her discretion, approve and adopt this Stipulated Surrender of License, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License be rejected for any reason by the Executive Director on behalf of the Board, respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,

1 discussion and/or consideration of this Stipulated Surrender of License or of any matter or matters
2 related hereto.

3 16. The parties understand and agree that Portable Document Format (PDF) and facsimile
4 copies of this Stipulated Surrender of License and Order, including Portable Document Format
5 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

6 17. In consideration of the foregoing admissions and stipulations, the parties agree that
7 the Board may, without further notice or formal proceeding, issue and enter the following Order:

8 **ORDER**

9 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. G 26925,
10 issued to Respondent Robert Barry Litman, M.D., is surrendered and accepted by the Medical
11 Board of California.

12 1. The surrender of Respondent's Physician's and Surgeon's Certificate No. G 26925
13 and the acceptance of the surrendered license by the Board shall constitute the imposition of
14 discipline against Respondent. This stipulation constitutes a record of the discipline and shall
15 become a part of Respondent's license history with the Medical Board of California.

16 2. Respondent shall lose all rights and privileges as a physician in California as of the
17 effective date of the Board's Decision and Order.

18 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
19 issued, his wall certificate on or before the effective date of the Decision and Order.

20 4. If Respondent should ever apply or reapply for a new license or certification, or
21 petition for reinstatement of a license, by any other health care licensing agency in the State of
22 California, all of the charges and allegations contained in Accusation, No. 800-2017-035668 shall
23 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
24 Issues or any other proceeding seeking to deny or restrict licensure.

25 5. Respondent understands and agrees that if he ever files a petition for reinstatement of
26 his license, that it will be reviewed by the Board pursuant to Business and Professions Code
27 section 822 and 823. The Respondent understands and agrees that the Board will require
28 competence evidence of the absence and/or control of the condition which caused Respondent to

1 be subject to this action before reinstatement of his license. Respondent further understands and
2 agrees that the Board may impose license terms, conditions, and restrictions as set forth in
3 Business and Professions Code section 823 as a pre-condition of the Board potentially ordering a
4 reinstatement of Respondent's license.

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DATED: 18 July 2018

DATED: 7/18/18

Dated: 7/23/18

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

Stipulated Surrender of License (Case No. 800-2017-035668)

Exhibit A

Accusation No. 800-2017-035668

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 JOHN S. GATSCHET
Deputy Attorney General
4 State Bar No. 244388
California Department of Justice
5 1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
Telephone: (916) 210-7546
7 Facsimile: (916) 327-2247

8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 9 2018
BY: [Signature] ANALYST

10 BEFORE THE
11 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2017-035668

14 **Robert Barry Litman, M.D.**
15 PO Box 775
Lincoln, CA 95648-0775

ACCUSATION

16 Physician's and Surgeon's Certificate No. G 26925,
17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs ("Board").

24 2. On or about June 13, 1974, the Medical Board issued Physician's and Surgeon's
25 Certificate No. G 26925 to Robert Barry Litman, M.D. ("Respondent"). That Certificate was in
26 full force and effect at all times relevant to the charges brought herein and will expire on
27 November 30, 2019, unless renewed. An Interim Suspension Order was issued on June 13, 2018,
28 which prohibits Respondent from practicing medicine.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides, in pertinent part, that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 820 of the Code states, in pertinent part:

"Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822."

6. Section 822 of the Code states, in pertinent part:

"If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

"(a) Revoking the licentiate's certificate or license.

"(b) Suspending the licentiate's right to practice.

"(c) Placing the licentiate on probation.

"(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

"The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated."

7. Section 2234 of the Code states, in pertinent part:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

“ . . .

“(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

“(f) Any action or conduct which would have warranted the denial of a certificate.

“ ”
...

8. Section 11170 of the Health and Safety Code states, in pertinent part:

“No person shall prescribe, administer, or furnish a controlled substance for himself.”

FIRST CAUSE FOR ACTION

(Mental Impairment Affecting Competency)

9. Respondent's license is subject to revocation and/or suspension under section 822 of the Code in that he has a mental impairment affecting his competency to practice medicine. The circumstances are as follows:

10. On or about October 25, 2017, Respondent voluntarily agreed to undergo a Medical Board mental health evaluation.

11. On April 1, 2018, Respondent was evaluated by a board-certified psychiatrist. The board-certified psychiatrist determined that Respondent suffers from a neurocognitive disorder. The board-certified psychiatrist determined that the neurocognitive disorder prevents Respondent from being able to plan, organize, or remember necessary medical information to safely treat patients. The board-certified psychiatrist stated in her medical opinion that Respondent is unable to safely practice medicine due to the neurocognitive disorder.

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